

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA)
)
V.) DOCKET NO. 19-CR-251-LM
)
JOHNATHON IRISH)
)

DEFENDANT'S MOTION IN LIMINE TO EXCLUDE 404(b) EVIDENCE

Defendant Johnathon Irish hereby moves this Court in limine to exclude the Government's proposed 404(b) evidence regarding his prior conviction. Irish contends that the evidence is not admissible under 404(b) as it is not similar enough to demonstrate a common scheme. In essence, Irish is alleged to have lied to a federal agent about selling certain firearms and to have engaged his wife as a straw purchaser. Irish expects that the Government's case-in-chief will involve some evidence that contends that his wife, rather than he, possessed the firearms involved in this case. The mere fact that Irish contends that the Government cannot prove beyond a reasonable doubt that the firearms belonged to Irish, rather than his wife, does not give rise to admissibility under 404(b) of the prior conviction. On the other hand, the conduct is similar enough to give rise to substantial unfair prejudice, rendering the admission of such evidence inadmissible under Rule 403 because the limited probative value of this evidence is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Defendant
Johnathon Irish
By his Attorney,

/s/ Benjamin L. Falkner
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Dated: February 4, 2020

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the within document upon the attorney of record for the Government via the Court's ecf system on February 4, 2020.

/s/ Benjamin L. Falkner
Benjamin L. Falkner